



## REMARKS

Claims 3-24, 34-46 and 59-65 remain for prosecution in the present application.

### Drawings

The Examiner has objected to the drawings in that the drawings allegedly do not show that the disk 46 in application FIG. 2, for example, is "loosely retained parallel to but separate from" the base wall 30 of the closure 28. In point of fact, this "loose retention" feature is shown in application FIGS. 1-3 and 7-9 in that there is no structure in any of these figures (or described in the application text) by means of which the disk is tightly secured to the closure shell. As described in the application text, this "loose retention" feature is important so that, upon initial rotation of the closure shell to remove the closure from the container, the disk and underlying liner do not rotate with the closure shell but remain stationary on the container neck finish. In this way, the liner sealing surface is not scraped or gouged by friction and the sealing capabilities of the liner are retained.

The general feature of "loose retention" of the sealing member within the closure shell is not new in and of itself. For example, the packing member 9 in Takano 5,984,124 cited by the Examiner is loosely retained within the shell 6 and is lifted out of engagement with the container neck finish by abutment with the bead 10 on the closure skirt. It appears that a similar arrangement is illustrated in Battezzore 5,131,549 in that the sub-cap 13 apparently is loosely retained within the closure shell and lifted out of plug-sealing engagement with the container neck finish by removal of the shell.

In the present application, as noted above, the disk 46 is shown being loosely retained within the closure shell in FIGS. 1-3. In the same way, the disk 72 is loosely retained within the closure shell in FIGS. 7-9. See also page 3, lines 1-2, page 8, line 1+, and especially page 9, lines 6-9 of the application text. In the embodiment of FIGS. 1-3 and in the embodiment of FIGS. 7-9, the disk is loosely retained within the closure shell and is "lifted" out of sealing engagement with the neck finish by means of the internal bead 66 on the closure shell.

**Claim Rejections - 35 USC 112**

All application claims have been rejected in that the claims allegedly contain subject matter not described in the specification - i.e., how the disk is loosely retained parallel to but separate from the base wall of the closure shell. This question is addressed in detail in the Remarks immediately above, both with reference to the application drawings and with reference to specific sections of the application text. In the illustrated exemplary embodiments, the disk is loosely retained within the closure shell parallel to but separate from the base wall by means of the internal bead 66 on the closure shell. This structure is exemplary only, and other structures are known in the art for loosely retaining disks or the like within closure shells, such as engagement of the disk periphery with internal threads on the closure skirt, to prevent the disk from falling out of the shell until applied to a container neck finish. Thus, the application text and drawings both fully support the claim language in question.

### Claim Rejections - Prior Art

A number of the application claims, including particularly all independent claims 16, 38, and 59-63, have been rejected over Takano 5,984,124 or Batteggazzore 5,131,549 combined with JP 02-258325. Reconsideration is respectfully requested.

The Japanese patent document cited as the secondary reference is directed to a vial from which product is removed by means of a syringe needle, and has nothing whatever to do with the subject matter disclosed and claimed in the present application. In FIG. 4 of this reference, for example, a rubber stopper 24 is retained by a shell 26 over the opening of a container 21. There is no disclosure or suggestion in the information provided that the shell 26 and/or the rubber stopper 24 is removable from the container, and indeed the rubber stopper and the annular affixment structure typically are not readily removable in packages of this type. This is in sharp contrast to the present invention, as well as the primary references, in which internal threads or other means are provided on the closure skirt for application and removal of the closure to and from a container neck finish.

Continuing discussion of the Japanese reference, a film 25 of "super-high molecular weight" polycarbonate is secured by thermoforming to the underside of the rubber stopper 24. The purpose of the super-high molecular weight polycarbonate film is to prevent particles or "cuttings," which might separate from the rubber stopper when a syringe needle is inserted through the stopper, from falling into the product within the package. The rubber stopper 24 is formed and the film 25 simultaneously is attached to the rubber stopper by a thermoforming operation illustrated in FIG. 2, in which the rubber and the polycarbonate film are preheated to the vulcanization temperature of the rubber,

and are thermoformed so that the stopper assumes the desired geometry and the film simultaneously is bonded to the undersurface of the rubber stopper. The Examiner at several locations in the Office Action refers to the polycarbonate film 25 (or 35 in FIG. 5) as a "liner." However, there is no suggestion whatsoever in the abstract materials of the Japanese reference that the polycarbonate film functions as a "liner," as that term is understood in the art, by sealing against the opposing surface of the container neck finish. The translated abstract materials indicate only that the overall package is "sealed," but do not teach or suggest that the super-high molecular weight polycarbonate film performs any sealing function. The Examiner also refers to the elements 25 and 35 in the Office Action as "a resilient liner." Construction of the film of "super-high molecular weight" polycarbonate would make the film anything but "resilient" as that term is understood in the art.

In summary, the Japanese reference discloses a completely different type of container and package for a completely different purpose as compared with the subject matter of the present application, and for that matter the subject matter of the two primary references. It is respectfully submitted, first, that the subject matter of the Japanese reference is so different from the subject matter of the primary references, and different from the subject matter of the present invention, that the Japanese reference is not combinable with the primary references to suggest the present invention or otherwise. Second, inasmuch as the polycarbonate film disclosed in the Japanese reference is anything but "resilient," as compared with each independent claim of the present application that specifically recites "a resilient liner," it is submitted that the proposed

combination of the Japanese reference with either of the primary references does not teach or suggest the present invention in any event.

Takano discloses a pilfer-proof closure that has a packing 9 disposed within a cap 6. The top wall 1 of the cap 6 is imperforate. The top surface of the packing 9 has grooves 13 and gaps N that provide an “air reservoir” 12 between the packing 9 and the top wall 1 of the cap 6. This “air reservoir” is a primary feature of the Takano disclosure, being discussed in detail starting at column 2, lines 26-30, column 3, lines 40-66, and column 5, line 52 to column 6, line 4, for example. The disclosed purpose of this air reservoir is to permit rotation of the cap 6 while the packing 9 remains in place, at least until the pilfer-proof band 8 is severed from the cap. The packing 9 has a sealing member 11 that is received within the mouth of the container neck finish, thus forming a plug (column 5, lines 49-52 and column 6, lines 52-54). It is not apparent, even with the impermissible benefit of hindsight, why a resilient sealing liner would be “obvious” or even desired in such a construction, even if the secondary JP reference suggested such a liner.

In the same way, Battezzore discloses a closure in which the sub-cap 13 is shown in FIG. 2 making plug-sealing engagement with the inside of the container mouth. The elements 18 are circumferentially spaced ribs that have lower edges resiliently to engage the container and surface (column 3, lines 32-43). Once again, there is no apparent need for a resilient sealing liner even if one were disclosed or suggested by the secondary Japanese reference.

Each independent claim 16, 38 and 59-63 of the present application expressly recites a plastic disk retained within the closure shell and a “resilient liner” molded onto the disk for sealing engagement with the container finish. See, for example,

claim 16, lines 5 and 10-12; claim 38, lines 7 and 12-14; claim 59, lines 4-6; claim 60, lines 2-5; claim 61, lines 4-6; claim 62, lines 5 and 9-11; and claim 63, lines 7 and 11-13. The independent and dependent claims of the present application recite other distinguishing features, but it is respectfully submitted that these "resilient liner" recitations alone are sufficient to demonstrate patentability over Takano or Batteggazzore combined with the Japanese reference, for reasons discussed in detail above.

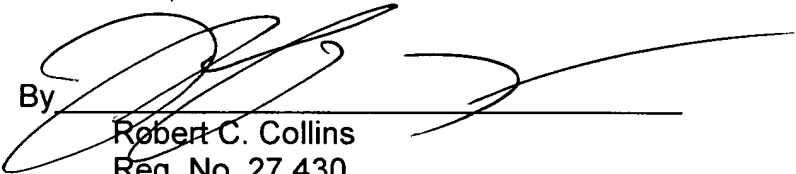
It therefore is believed and respectfully submitted that all claims 3-24, 34-46 and 59-65 remaining in the application are allowable at this time, and favorable action is respectfully solicited.

Please charge any fees associated with this submission to Account No. 15-0875 (Owens-Illinois).

Respectfully submitted,

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